

RESPONSE

Serial Number: 10/731,422

Filing Date: December 8, 2003

Title: USER INTERFACE FOR CARDIAC RHYTHM MANAGEMENT DEVICE PROGRAMMER

Page 6

Dkt: 279.B41US1

REMARKS

This responds to the Office Action dated on December 10, 2007. No claims are amended, canceled, or added; as a result, claims 1-17 remain pending in this patent application.

Telephonic Interview Summary

Applicant thanks Examiner George Manuel for extending the courtesy of an informal telephonic interview with Applicant's representative, Suneel Arora. Differences between the claim language and the references U.S. Patent No. 6,088,618 to Kerver and U.S. Patent No. 5,792,206 to Bevan were discussed. Although no agreement was reached, the Examiner's feedback was helpful in formulating the present response, which Applicant believes render the present claims allowable over the rejections of record, for the reasons explained below.

Request for Telephonic Interview

If the present remarks do not result in allowance of all claims, then Applicant respectfully formally requests a telephonic interview with Applicant's representative, Suneel Arora, to discuss any rejection that is being maintained, or any new grounds of rejection. Applicant respectfully submits that such telephonic prosecution would be helpful in expediting examination of the present case.

§103 Rejection of the Claims

Claims 1-17 were rejected under 35 U.S.C. § 103(a) for being allegedly obvious over Kerver (U.S. Patent No. 6,088,618) in view of Bevan (U.S. Patent No. 5,792,206). Applicant respectfully traverses this rejection.

The primary reference to Kerver is directed to a "programmer system[] and method[] providing for downloading of new software to an implanted pacemaker for modifying pacemaker control functionality, and for providing associated manual information at the time of such pacemaker modification."¹ Furthermore, Kerver describes a programmer that is operable to update software for a single family of pacemaker types.² However, Kerver apparently does not

¹ Kerver at Field of Invention.

² See Kerver at col. 6, lines 12-32; Table 1.

describe maintaining or updating “a plurality of product families of cardiac rhythm management system devices,” as recited in independent claims 1, 9, 11, and 15.

The secondary reference to Bevan is directed to “identifying implantable cardiac devices and, more particularly, to identifying which family an implantable cardiac device belongs to.”³ Bevan’s operation is apparently fully automatic – that is, the programmer identifies and establishes communication with an implantable cardiac device using a stepwise algorithm, which is performed without user interaction.⁴ As such Bevan fails to rectify the deficiency of Kerver because Bevan fails to disclose, teach, or suggest “a user-interface display configured to display: a first module listing a plurality of product families of cardiac rhythm management system devices,” as recited in independent claim 1 and similarly recited in independent claims 9, 11, and 15. There simply is no need to provide such a display in Bevan because of the fully-automated discovery operation of Bevan’s device.

Moreover, Applicant respectfully submits that one would not look to Bevan to improve the operation of Kerver, for they each solve very disparate problems in the art. For example, Kerver is apparently focused on delivering timely information of a device’s operating manual at the time of reprogramming the device, whereas Bevan is apparently focused on efficiently and expeditiously establishing a communication link with an unknown device.

Moreover, the putative combination of Bevan with Kerver would not perform the claimed operation. For example, the primary reference, Kerver, provides for displaying a manual for a particular pacemaker type.⁵ In Kerver’s preferred embodiment, a user loads a “new software release” on a programmer (step 26)⁶, chooses whether to view portions of a related manual (step 32)⁷, and then makes a decision to download the new software to the pacemaker⁸. In addition, the user may optionally select pacemaker data corresponding with a different pacemaker than the one related to the software previously loaded at step 26.⁹ Clearly, throughout this process of Kerver, the user would be fully aware of the pacemaker type to be programmed.

³ Bevan at col. 1, lines 5-7.

⁴ See, e.g., Bevan at col. 1, lines 37-64; col. 3, lines 21-44.

⁵ Kerver at col. 6, line 42 – col. 7, line 6.

⁶ Kerver at col. 6, lines 8-12; FIG. 3.

⁷ Kerver at col. 6, lines 42-51; FIG. 3.

⁸ Kerver at col. 7, lines 7-11; FIG. 3.

⁹ Kerver at col. 6, line 66 – col. 7, line 6.

The secondary reference Bevan merely provides a method of identifying and establishing a communication link with an implantable cardiac device, using a histogram.¹⁰ However, Bevan's histogram is apparently never displayed to the user, instead the histogram is apparently merely used internal to the programmer, and is apparently only used when attempting to establish a connection with an implant.¹¹

Thus, Bevan's operation, if combined with Kerver, would merely provide for method to transparently provide a communication link to an implantable cardiac device. In particular, the connection would most likely be provided at the sole step in Kerver where communication between the programmer and the pacemaker is needed, i.e., step 45 of FIG. 4, where "the programmer interrogates the pacemaker to obtain the pacemaker's ID data."¹² Clearly, the putative combination of Bevan and Kerver would not display "a first module listing a plurality of product families of cardiac rhythm management system devices" at this point in their combined operation because Bevan's operation is meant to be transparent to the user, and the user has already selected the pacemaker type used to download the program to the pacemaker (steps 26, 33, and 38)¹³.

In sum, Applicant respectfully submits that Kerver and Bevan, alone or in combination, fail to describe, teach, or suggest all elements recited or incorporated in the present claims, therefore, no *prima facie* case of obviousness exists with respect to these claims. Accordingly, Applicant respectfully requests withdrawal of this basis of rejection of these claims.

¹⁰ Bevan at Abstract; col. 4, lines 24-51.

¹¹ See Bevan at col. 3, line 51 – col. 4, line 51.

¹² Kerver at col. 7, lines 12-16.

¹³ Kerver at col. 6, line 12 – col. 7, line 6; FIG. 3.

RESPONSE

Serial Number: 10/731,422

Filing Date: December 8, 2003

Title: USER INTERFACE FOR CARDIAC RHYTHM MANAGEMENT DEVICE PROGRAMMER

Page 9

Dkt: 279.B41US1

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have equally addressed every assertion made in the Office Action; however, this does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

RESPONSE

Serial Number: 10/731,422

Filing Date: December 8, 2003

Title: USER INTERFACE FOR CARDIAC RHYTHM MANAGEMENT DEVICE PROGRAMMER

Page 10

Dkt: 279.B41US1

CONCLUSION

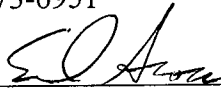
Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.


Respectfully submitted,

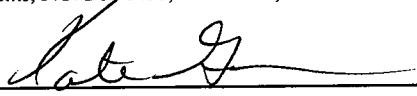
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6951

Date March 5, 2008

By 
Suneel Arora
Reg. No. 42,267

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box-1450, Alexandria, VA 22313-1450 on this 5 day of March 2008.


Name


Signature